



July 20, 2007

Jay Kenesey  
18 Lakes Crest Drive  
Milford, DE 19963

RE: PLUS review – PLUS 2007-06-03; Willard Hart

Dear Mr. Kenesey:

Thank you for meeting with State agency planners on June 27, 2007 to discuss the proposed plans for the Hart Property project to be located at 376 Upper King Road.

According to the information received, you are seeking a rezoning 3.1 acres from AR to BG to construct a warehouse on the site of the existing chicken house.

Please note that changes to the plan, other than those suggested in this letter, could result in additional comments from the State. Additionally, these comments reflect only issues that are the responsibility of the agencies represented at the meeting. The developers will also need to comply with any Federal, State and local regulations regarding this property. We also note that as Kent County is the governing authority over this land, the developers will need to comply with any and all regulations/restrictions set forth by the County.

The following are a complete list of comments received by State agencies:

**Office of State Planning Coordination – Contact: David Edgell 739-3090**

This PLUS review includes both a comprehensive plan amendment and a rezoning request. The rezoning of this property is at the discretion of Kent County Levy Court. Should the Levy Court ultimately choose to grant this rezoning request, the comprehensive plan amendment must be adopted prior to or concurrently with the zoning change. This rezoning is located in Investment Level 2 with a small area in Investment Level 3 according to the *State Strategies for Policies and Spending*. This site is also located in the Kent County Growth Zone. Investment Level 2 reflects areas where growth is anticipated by local, county, and State plans in the near term future. Investment Level 3 reflects where growth is anticipated in the long term State investments will support growth in these areas. Our office has no objections to the proposed rezoning of this parcel in accordance with the relevant County codes and ordinances.

**Division of Historical and Cultural Affairs – Contact: Alice Guerrant 739-5685**

The historic resources at the Division of Historical & Cultural Affairs- State Historic Preservation Office do show that there are no visual or known archaeological sites on or within the area of where this particular parcel (property) is located. However, there are at least two known Cultural Resource Survey (CRS) sites that are near this particular parcel, and they are K-3802 and K-3803. K-3802 is south of the parcel facing Upper King Rd, and it is an early 20th-century dwelling/house (early 1900s period). K-3803 is north of the parcel facing Upper King Rd, and it is a late 19th- century dwelling/house (late 1800s period). Even though these houses are not directly on this parcel, their architectural features or structures are still somewhat historically significant. It is also important for the developer to include sufficient landscaping around this project area, in order to protect the other historic properties in or within this specific area from the adverse visual and noise effects that may come from this commercial development. If you (the owner) would like to discuss this information or other issues further, contact the Division of Historical & Cultural Affairs at (302) 744-7400 ext.25.

**Department of Transportation – Contact: Bill Brockenbrough 760-2109**

- 1) DelDOT commented to Kent County on the subject rezoning on June 15, 2007. A copy of those comments are enclosed. As they said then, they do not recommend that a TIS be required for this application. If the site were developed for retail use, which it could be under the proposed BG zoning, it would not meet the average daily traffic (ADT) volume warrants for a TIS. Further, existing traffic conditions appear to be relatively uncongested in the immediate area of the site. However, the applicant would need to submit a more detailed analysis to the

County to demonstrate whether a TIS is needed under the terms of the County's Adequate Public Facilities Ordinance (APFO).

- 2) The response to Question 36 states that the site ADT will be 15 vehicles per day. While this figure may be accurate for a particular warehouse user (yet to be defined), the standard reference DelDOT uses in such matters, the Institute of Transportation Engineers' Trip Generation report (7<sup>th</sup> edition) predicts 284 trips per day (142 entering, 142 exiting) for a 3.1-acre warehouse development.
- 3) The following comments pertain to the site plan that might be developed if the proposed rezoning is approved:
  - a) Upper King Road is classified as a major collector road. DelDOT's policy is to require dedication of sufficient land to provide a minimum right-of-way width of 40 feet from the centerline on major collector roads. Therefore DelDOT will require right-of-way dedication along the frontage to provide any additional width needed from this project.
  - b) DelDOT will require the developer to provide a 15-foot wide permanent easement along the property frontage on Route 14 for a future 10-foot wide shared use path.
  - c) The developer's site engineer should contact the project manager for Kent County, Mr. Brad Herb, regarding specific requirements for access and off-site improvements. He may be reached at (302) 266-9600.

**The Department of Natural Resources and Environmental Control – Contact: Kevin Coyle 739-9071**

### **Water Supply**

The project information sheets state that water will be provided to the project by an individual on-site well. DNREC records indicate that the project is located within the public water service area granted to Tidewater Utilities under Certificate of Public Convenience and Necessity PSC-1190. It is recommended that the owner contact Tidewater Utilities to determine the availability of public water. Any public water utility providing water to the site must obtain a certificate of public convenience and necessity (CPCN) from the Public Service Commission. Information on CPCNs and the application process can be obtained by contacting the Public Service Commission at 302-739-4247. Should an on-site public well be needed, a minimum isolation distance of 150

feet is required between the well and any potential source of contamination, such as a septic tank and sewage disposal area. The Division of Water Resources will consider applications for the construction of on-site wells provided the wells can be constructed and located in compliance with all requirements of the Regulations Governing the Construction and Use of Wells. A well construction permit must be obtained prior to constructing any wells.

Should dewatering points be needed during any phase of construction, a dewatering well construction permit must be obtained from the Water Supply Section prior to construction of the well points. In addition, a water allocation permit will be needed if the pumping rate will exceed 50,000 gallons per day at any time during operation.

All well permit applications must be prepared and signed by licensed water well contractors, and only licensed well drillers may construct the wells. Please factor in the necessary time for processing the well permit applications into the construction schedule. Dewatering well permit applications typically take approximately four weeks to process, which allows the necessary time for technical review and advertising.

Should you have any questions concerning these comments, please contact Rick Rios at 302-739-9944.

### **Sediment and Erosion Control/Stormwater Management**

The Stormwater program has no objection to the rezoning request. However, prior to land disturbing activity greater than 5,000 square feet, and as soon as possible prior to site plan development if possible, the applicant should contact the Kent Conservation District's Jared Adkins at (302) 741-2600, ext. 3, to schedule a pre-application meeting to discuss stormwater management and erosion and sediment control plans. Use of green technology practices and low impact development practices are recommended where feasible.

### **State Fire Marshal's Office – Contact: Duane Fox 739-7394**

These comments are intended for informational use only and do not constitute any type of approval from the Delaware State Fire Marshal's Office. At the time of formal submittal, the applicant shall provide; completed application, fee, and three sets of plans depicting the following in accordance with the Delaware State Fire Prevention Regulation (DSFPR):

❖ ***This Agency has no objection to the re-zoning request. The information provided below shall be considered when plans are being designed.***

As a note, applicant was advised at the PLUS meeting that prior to development and specifications and development of the property, the local office of the State Fire Marshal is to be contacted. Additionally, applicant was advised that changes made in 2006 in the State Fire Prevention Regulations now requires sprinkler system installation more often in Storage occupancies, including smaller mini-storage buildings.

Preliminary meetings with Fire Protection Specialists are encouraged prior to formal submittal. Please call for appointment. Applications and brochures can be downloaded from our website: [www.delawarestatefiremarshal.com](http://www.delawarestatefiremarshal.com), technical services link, plan review, applications or brochures.

**Department of Agriculture - Contact: Scott Blaier 698-4500**

The Delaware Department of Agriculture has no objections to the proposed rezoning. The *Strategies for State Policies and Spending* encourages environmentally responsible development in Investment Level 2 and 3 areas.

*Right Tree for the Right Place*

The Delaware Department of Agriculture Forest Service encourages the developer to use the "Right Tree for the Right Place" for any design considerations. This concept allows for the proper placement of trees to increase property values in upwards of 25% of appraised value and will reduce heating and cooling costs on average by 20 to 35 dollars per month. In addition, a landscape design that encompasses this approach will avoid future maintenance cost to the property owner and ensure a lasting forest resource.

*Native Landscapes*

The Delaware Department of Agriculture and the Delaware Forest Service encourages the developer to use native trees and shrubs to buffer the property from the adjacent land-use activities near this site. A properly designed forested buffer can create wildlife habitat corridors and improve air quality to the area by removing six to eight tons of carbon dioxide annually and will clean our rivers and creeks of storm-water run-off pollutants. To learn more about acceptable native trees and how to avoid plants considered invasive to our local landscapes, please contact the Delaware Department of Agriculture Plant Industry Section at (302) 698-4500.

*Tree Mitigation*

The Delaware Forest Service encourages the developer to implement a tree mitigation program to replace trees at a 1:1 ratio within the site and throughout the community. This will help to meet the community's forestry goals and objectives and reduce the environmental impacts to the surrounding natural resources. To learn more, please contact our offices at (302) 349-5754.

**Public Service Commission - Contact: Andrea Maucher 739-4247**

Any expansion of natural gas or installation of a closed propane system must fall within Pipeline Safety guidelines. Contact: Malak Michael at (302) 739-4247.

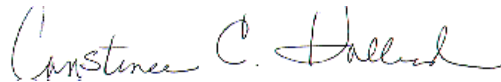
**Department of Education – Contact: John Marinucci 735-4055**

This proposed development is within the Lake Forest School District. This is a commercial/industrial development with no apparent impact on educational infrastructure, capacity or demand. DOE has no comments or objections to this rezoning request.

**Following receipt of this letter and upon filing of an application with the local jurisdiction, the applicant shall provide to the local jurisdiction and the Office of State Planning Coordination a written response to comments received as a result of the pre-application process, noting whether comments were incorporated into the project design or not and the reason therefore.**

Thank you for the opportunity to review this project. If you have any questions, please contact me at 302-739-3090.

Sincerely,

A handwritten signature in cursive script that reads "Constance C. Holland".

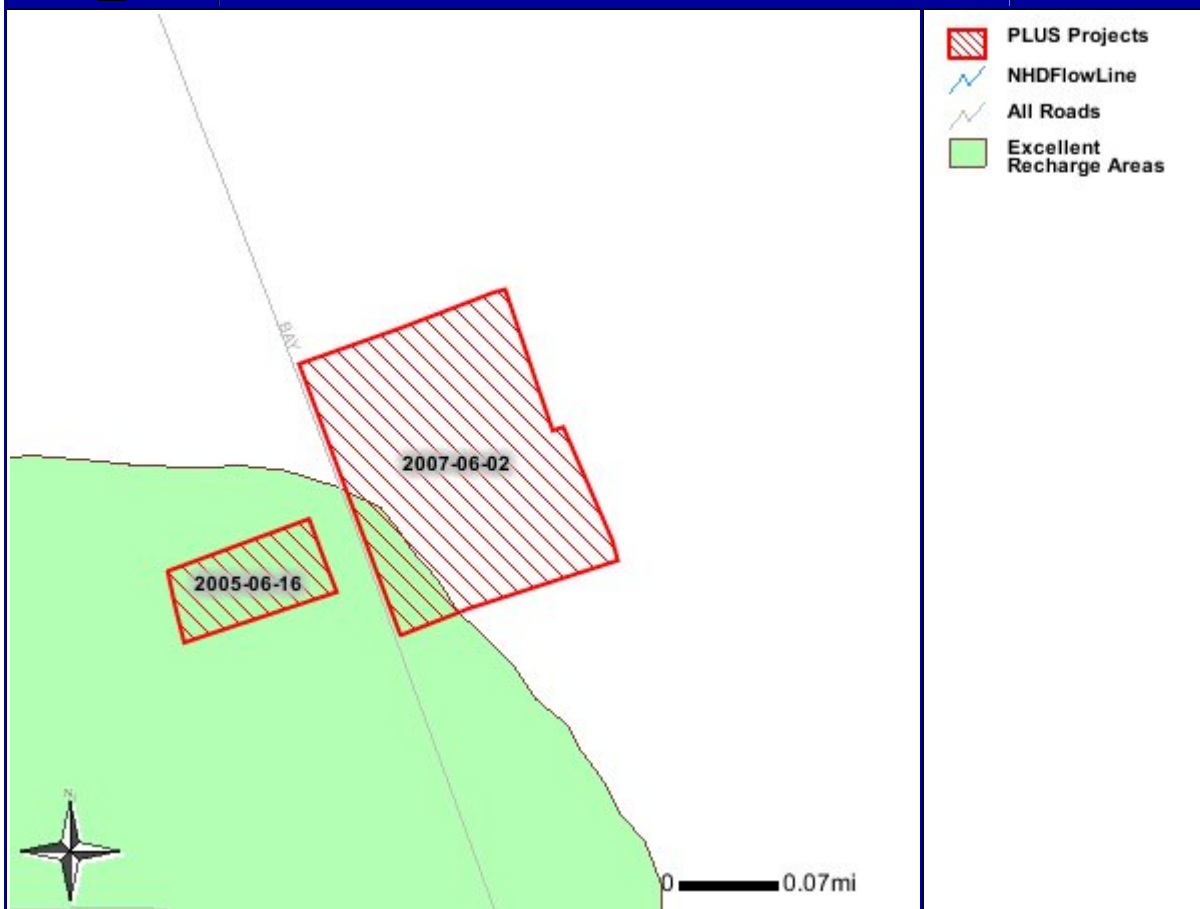
Constance C. Holland, AICP  
Director

CC: Kent County



# Bay Road Properties

2007-06-02



This map was produced by the Delaware  
Department of Natural Resources and Environmental Control.

